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8 **UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON**

9 THE ESTATE OF CINDY LOU HILL, by
10 and through its personal representative,
11 Joseph A. Grube; and CYNTHIA
12 METSKER,
13 individually,

14 Plaintiffs,

15 vs.

16 NAPHCARE INC., an Alabama
17 corporation; HANNAH GUBITZ,
18 individually; and SPOKANE COUNTY, a
19 political subdivision of the State of
20 Washington.

21 Defendants.

NO. 2:20-cv-00410-MKD

**DEFENDANT SPOKANE
COUNTY'S OPPOSITION TO
NAPHCARE'S POST-TRIAL
MOTION BASED ON THE
DENIAL OF BIFURCATION**

22 **I. INTRODUCTION**

23 Co-Defendant NaphCare's post-trial motion, in part, challenges the Court's Order
24 denying the motion to bifurcate. *See*, Dkt. 286, pp. 29-31. NaphCare's Motion to bifurcate
25 sought a first phase of trial that would consist of the jury determining NaphCare's liability for
26 plaintiffs' claims against NaphCare and Hannah Gubitz for negligence and alleged civil rights
violations. *See*, Dkt. 115. If the jury found liability as to either NaphCare or Ms. Gubitz, the
second phase would begin immediately, with the same jury considering damages against all
liable defendants. Dkt. 115. Spokane County opposed the bifurcation of the trial because it

1 would not have promoted judicial efficiency and it would be unfair to Spokane County. The
2 County adopts by reference the arguments in made in opposition to that motion at the time.
3 See, Dkt. 133.

4 II. LAW AND ARGUMENT

5 As this Court noted in its Order denying the motion to bifurcate (see Dkt. 147),
6 “Bifurcation is a case-specific inquiry,” and district courts “have broad discretion over whether
7 to bifurcate.” *McCoy v. City of Vallejo*, No. 219CV001191JAMCKD, 2021 WL 492535, at *2
8 (E.D. Cal. Feb. 10, 2021). NaphCare has not established that this Court abused its discretion.
9 “A district court abuses its discretion if it bases its decision on an erroneous view of the law or
10 on a clearly erroneous assessment of the evidence.” *Liberty Ins. Corp. v. Brodeur*, 41 F.4th
11 1185, 1189–90 (9th Cir. 2022), *quoting*, *Ingenco Holdings, LLC v. Ace Am. Ins. Co.*, 921 F.3d
12 803, 808 (9th Cir. 2019) (cleaned up). *See also United States v. Working*, 287 F.3d 801, 807
13 (9th Cir. 2002) (explaining that a district court abuses its discretion when a ruling is guided by
14 erroneous legal conclusions). Likewise, “[a district] court abuses its discretion when it fails to
15 apply the correct legal standard or bases its decision on unreasonable findings of fact.” *Liberty*
16 *Ins. Corp.*, *supra*, 1189–90, *quoting*, *Briseño v. Henderson*, 998 F.3d 1014, 1022 (9th Cir.
17 2021) (quoting *Nachshin v. AOL, LLC*, 663 F.3d 1034, 1038 (9th Cir. 2011)).

18 That portion of NaphCare’s post-trial motion challenging the Court’s bifurcation ruling
19 does not establish that the incorrect legal standard was applied by the Court or that the Court
20 was “clearly erroneous” in assessing the facts relevant to its decision. NaphCare instead
21 focuses on how the jury *might* have weighed the information that the Court had granted
22 plaintiffs’ motion for default judgment against Spokane. That is speculative. NaphCare’s
23 motion essentially requires this Court to conclude that the jury *would have* ruled in favor of
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1 NaphCare in the liability only phase of the trial and thus NaphCare would not have been part of
2 the damage phase. However, this is also speculative and, in any event does not establish an
3 abuse of discretion by the Court.

4 The Court's Order Denying the Motion for Bifurcation was not an abuse of discretion.
5 To the extent NaphCare seeks a new trial based on that Order, Spokane County opposes that
6 portion of the motion.
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8 DATED this 14th day of September, 2022.

9
10 LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.

11 */s/ John E. Justice*

12 John E. Justice, WSBA No 23042
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1 **CERTIFICATE OF FILING & SERVICE**

2 I certify under penalty of perjury under the laws of the United States of America and the
3 State of Washington that on the date specified below, I electronically filed the foregoing with
4 the Clerk of the Court using the CM/ECF system which constitutes service on the following
5 under LCivR 5(b):

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16 DATED this 14th day of September, 2022, at Tumwater, WA.

17 /s/ John E. Justice

18

John E. Justice